

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Cooper	Team: Squad #7	CCRB Case #: 201707010	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 08/18/2017 10:00 AM	Location of Incident: In front of 198 East 161st Street	Precinct: 44	18 Mo. SOL 2/18/2019	EO SOL 2/18/2019	
Date/Time CV Reported Sat, 08/19/2017 7:40 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/24/2017 4:17 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Diaz	28347	940091	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Diaz	Discourtesy: Police Officer Daniel Diaz spoke discourteously to § 87(2)(b)	
B.POM Daniel Diaz	Abuse: Police Officer Daniel Diaz threatened to arrest § 87(2)(b)	

Case Summary

On August 18, 2017, § 87(2)(b) filed this complaint via telephone with the IAB, generating IAB Log number 17-32276. The case was received at the CCRB on August 24, 2017.

On August 18, 2017, at approximately 10:00 a.m., § 87(2)(b) and his wife, § 87(2)(b) exited the Bronx DA's office located at 198 East 161st Street, in the Bronx, § 87(2)(b). After exiting the building, § 87(2)(b) and § 87(2)(b) approached PO Daniel Diaz, from the 44th Precinct, who was writing § 87(2)(b) a summons for parking in front of a bus stop. During § 87(2)(b)'s conversation with PO Diaz, PO Diaz allegedly said, "People die all the time," and allegedly threatened to arrest § 87(2)(b) for disorderly conduct (**Allegations A and B**). § 87(2)(b) was ultimately issued a parking summons for parking at a bus stop which had a posted no standing zone sign.

There was no video evidence for this case.

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined mediation.
- As of November 3, 2017, § 87(2)(b) has not filed a Notice of Claim with the New York City Comptroller's Office (Board Review 1).
- § 87(2)(b)

Civilian and Officer Histories

- This is the first CCRB complaint filed by § 87(2)(b) (Board Review 3).
- PO Diaz has been a member of service for 11 years and has been the subject of 14 allegations stemming from 11 cases.
 - § 87(4-b), § 87(2)(g)
 - In CCRB case number 201605109, the Board substantiated a force allegation against PO Diaz for striking a civilian with his vehicle and the Board recommended command discipline. To date, the NYPD has not instituted any discipline.

Findings and Recommendations

Allegation A- Discourtesy- Police Officer Daniel Diaz spoke discourteously to § 87(2)(b)

Allegation B- Abuse of Authority- Police Officer Daniel Diaz threatened to arrest § 87(2)(b)

It is undisputed that § 87(2)(b) knowingly parked his vehicle at a bus stop, a no-standing zone, and that PO Diaz ultimately issued § 87(2)(b) a parking summons.

§ 87(2)(b) stated that he told PO Diaz that the reason he parked in the bus lane was because he needed to pick up his wife due to a death in the family. PO Diaz then responded, "People die all the time." After § 87(2)(b) told PO Diaz he was a "sorry ass cop," they engaged in an

argument. During the argument, PO Diaz told § 87(2)(b) “Keep running your mouth and I will arrest you for disorderly conduct” and “You better get in your car and go home before I arrest you for disorderly conduct.” § 87(2)(b) denied that he engaged in disorderly behavior, that a crowd formed, or that his vehicle blocked pedestrian, vehicular, or bus traffic (Board Review 4 and 5).

§ 87(2)(b) stated that once PO Diaz said, “It’s not my problem people die all the time” that § 87(2)(b) responded, “You are a sorry ass cop,” and the two of them engaged in a verbal disagreement. Initially, § 87(2)(b) testified that PO Diaz said something similar to, “If you don’t stop talking to me [or if you don’t get in the car] then you could go to jail today.” § 87(2)(b) later recalled that PO Diaz specifically told § 87(2)(b) “I will arrest you for disorderly conduct.” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

While PO Diaz acknowledged that the conversation with § 87(2)(b) was contentious, he did not recall what was said during their conversation nor did he recall what had caused the conversation to become contentious. PO Diaz did not recall if § 87(2)(b) provided him with any reason as to why he had parked in the bus stop, and he did not recall if he told § 87(2)(b) “People die every day.” PO Diaz denied that § 87(2)(b)’s vehicle blocked vehicular traffic, but stated that because § 87(2)(b)’s vehicle was parked within the bus lane, had a bus arrived, it would have blocked the flow of vehicular and pedestrian traffic. PO Diaz did not recall uttering any threats during his interaction with § 87(2)(b) and he did not recall if he ever said, “Keep running your mouth, and I will arrest you for disorderly conduct” or “You better get back in your car before I arrest you for disorderly conduct.” PO Diaz denied that § 87(2)(b)’s behavior constituted disorderly conduct (Board Review 7, 8 and 9).

There were no additional witnesses, audio or video evidence available to the investigation.

§ 87(2)(g)

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Squad: 07

Investigator:	_____	<u>Daniel Cooper</u>	_____
	Signature	Print	Date
Squad Leader:	_____	<u>Diana Townsend</u>	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date